THE BOMBAY MATERNITY BENEFIT ACT, 1929.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent and operation.
3. Definitions.
4. Employment of or work by women in factories prohibited during certain period.
5. Right to payment of maternity benefit.
6. Procedure regarding payment of maternity benefit.
7. Payment of maternity benefit in case of a woman's death.
8. No notice of dismissal to be given to a woman during period of maternity benefit.
9. Forfeiture of maternity benefit.
10. Penalty for contravention of the Act by an employer.
11. Penalty for contravention of the Act by a woman.
12. Cognisance of offences.
13. Limitation of prosecutions.
14. Rules.
15. Copies of this Act and rules thereunder to be exhibited.

BOMBAY ACT No. VII OF 1929.[1]

[THE BOMBAY MATERNITY BENEFIT ACT, 1929.]

[*23rd May 1929.*]

Amended by Bom. 5 of 1934.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them in the manner hereinafter provided; and Whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

Short title.

1. This Act may be called the Bombay Maternity Benefit Act, 1929.

Extent and operation.

2. (*1*) This Act shall apply in the first instance to the Bombay Suburban District and the cities of Bombay, Ahmedabad, Viramgam, Surat, Broach, Jalgaon, Sholapur, Belgaum, Amalner and Karachi. [2][The Provincial Government] may from time to time, by notification in the [3][*Official Gazette*] extend* this Act to such other places as it thinks fit.

(*2*) It shall come into operation on the first day of July 1929.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

XII of 1911.

(*a*) "employer" includes an occupier of a factory as defined in the [4]Indian Factories Act, 1911, and the manager of a factory.

XII of 1911.

(*b*) the expressions "employ", "employed", "factory", and "inspector of factories" shall have the same meanings as are respectively assigned to them under the [4]Indian Factories Act, 1911.

(*c*) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a factory.

[5][(*d*) "wages" includes the money value of any earned grain concession, and any money paid to cover high cost of living but does not include a bonus given for regular attendance, or any deduction or payment made on account of fines.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1928, Part V, p. 15; for Report of the Select Committee, see *ibid.*, 1928, Part V, p. 132; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1928, Vol. XXIII and 1929, Vol. XXV.

[2] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] See now the Factories Act, 1948 (63 of 1948).

[5] Clause (*d*) was inserted by Bom. 5 of 1934, s. 2.

* This Act was extended to the Districts of East and West Khandesh, Sholapur, Dharwar, Thana and Kaira and to the City of Poona with effect from the 1st July 1931 (*Vide* Political Department, Notification No. 8178, dated the 26th May 1931, published in the *Bombay Government Gazette*, 1931, Part I, p. 1335).

Employment of or work by women in factories prohibited during certain period.

4. After this Act comes into operation—

(*1*) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery; and

(*2*) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Right to payment of maternity benefit.

5. (*1*) Subject to the provisions of this Act, every woman employed in a factory shall be entitled to the payment of maternity benefit at the rate of eight annas a day [1][in the cities of Bombay, Ahmedabad and Karachi, and elsewhere at the rate of her average daily wage calculated to the nearest quarter of an anna on the total wages earned during a period of three months immediately preceding the date on which she gives notice under sub-section (*1*) of section 6, or at the rate of eight annas a day, whichever is less] for the actual days of her absence for the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (*2*):

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than [2][nine] months immediately preceding the date on which she [3][gives notice] under sub-section (*1*) of section 6.

(*2*) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be [4][eight] weeks, that is to say, [4][four] weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Procedure regarding payment of maternity benefit.

6. (*1*) Any woman employed in a factory and entitled to maternity benefit under the provisions of this Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she received maternity benefit.

(*2*) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

[5](*3*) Maternity benefit shall be paid by the employer to the woman entitled thereto after taking her wishes into consideration in any one of the following three ways, namely:—

(*i*) for four weeks—within forty-eight hours of the production of a certificate signed by a registered medical practitioner certifying that the woman is expected to be confined within one month next following, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child; or

(*ii*) for the period up to and including the day of delivery—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—punctually four weeks after the production of such certified extract from a birth register; or

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[1] These words, figures and brackets were inserted by Bom. 5 of 1934, s. 3.
[2] The word "nine" was substituted for the word "six", *ibid.*, s. 3.
[3] The words "gives notice" were substituted for the words "notifies her intention", *ibid.*
[4] The words "eight" and "four" were substituted for the words "seven" and "three", *ibid.*
[5] This sub-section was substituted for the original sub-section (*3*), *ibid*, s. 4.

(*iii*) for the entire period for which the woman is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production within six weeks of her delivery of a certified extract from a birth register stating that she has given birth to a child ;

Provided that no woman shall be entitled to any maternity benefit or any part thereof the payment of which is dependent upon the production of a certified extract from a birth register under the provisions of this sub-section unless such extract has been produced within six months of the day of her delivery.

Payment of maternity benefit in case of a woman's death.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child ; and if the child does not survive her to her legal representative.

No notice of dismissal to be given to a woman during period of maternity benefit.

8. When a woman absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

Forfeiture of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to a absent herself under the provisions of section 6 she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Penalty for contravention of the Act by an employer.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by a woman.

11. If any woman works in any factory within four weeks of the date of her delivery she shall be liable ,on conviction, to a fine not exceeding ten rupees.

Cognisance of offences.

12. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the inspector of factories.

(*2*) No court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Limitation of prosecutions.

13. No Court shall take cognisance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Rules.

14. (*1*) The [1][Provincial Government] may make [2]rules for the purpose of carrying into effect the provisions of this Act.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] For Rules under this section, *see* Government Notification in the G. D. No. 1066, dated the 2nd August 1929, published in the *Bombay Government Gazette*, 1929, Part I, pp. 1703-1705.

For amendments in the above Rules, *see*

Political and Reforms Department Notification No. 9699-II, dated the 1st June 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 1340.

Political and Reforms Department Notification No. 9721, dated the 7th December 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 2876.

Political and Reforms Department Notification No. 9721, dated the 29th January 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 245.

Political and Reforms Department Notification No. 8574-II, dated the 20th September 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 2096.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

[1](*a*) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under section 35 of the [2]Indian Factories Act, 1911 ; XII of 1911.

(*b*) the inspection of factories for the purposes of this Act by inspectors of factories ;

(*c*) the exercise of powers and the performance of duties by inspectors of factories for the purposes of this Act ;

(*d*) the method of payment of maternity benefit in so far as provision has not been made in this Act ; and

(*e*) any other matter for which no provision has been made in this Act and for which provision is, in the opinion of the [3][Provincial Government], necessary.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [4][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [5][by a Resolution in which both the Chambers concur]. If any rule is modified the [3][Provincial Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Copies of this Act and rules thereunder to be exhibited.

15. [6][An abstract] of the provisions of this Act and the rules thereunder in the local vernacular shall be exhibited in a conspicuous [7][manner] by the employer in every [8][part of a] factory in which women are employed.

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[1] Clause (*a*) was substituted for the original clause (*a*) by Bom. 5 of 1934, s. 5.

[2] *See* now the Factories Act, 1948 (63 of 1948).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[5] These words were inserted, *ibid.*

[6] The words "An abstract" were substituted for the words "A copy" by Bom. 5 of 1934, s. 6.

[7] The word "manner" was substituted for the word "place", *ibid.*

[8] The words "part of a" were inserted, *ibid.*